



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
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Paper No. 35

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MAIL

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:)
Richard Mettke)
Application No. 09/134,831) **DECISION ON PETITION UNDER**
Filed: August 17, 1998) **37 CFR §1.181**
)
For: ON-LINE COMMUNICATIONS)
TERMINAL/APPARATUS)

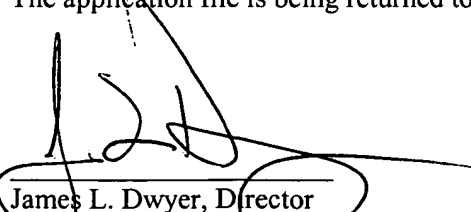
This is a decision on the petition filed December 2, 2002, requesting that the rejections be withdrawn and allowance be provided.

37 CFR §1.181(f) states that a petition not filed within 2 months of the action complained of may be dismissed as untimely. The most recent rejection is the Final Rejection mailed March 12, 2002. The petition was filed more than eight months subsequent to the last rejection. Furthermore, since a proper response to the final Office action, by way of amendment placing the application in condition for allowance, Notice of Appeal, Continued Prosecution Application or Request for Continued Application have not been filed, the case is abandoned as of September 19, 2002. The petition is therefore, untimely. The Advisory Actions of May 15, 2002, June 25, 2002 and October 11, 2002 are not substantive actions and do not modify the actions complained of.

Therefore, the petition to invoke the supervisory authority of the Commissioner under 37 CFR §1.181 is **DISMISSED** as being untimely.

Notwithstanding the above, petitioner argues the merits of the examiner's actions and not procedure. The positions taken by petitioner are subject to appeal under 37 CFR § 1.191 and not petition under § 1.181, see MPEP §§ 1201 and 1205.

The application file is being returned to the examiner for preparation of a Notice of Abandonment.


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Communications